

**From:** Waye, Don  
**To:** Sweeney, Stephen; Carlin, Jayne; Byrne, Jennifer; 'jeff.dillen@noaa.gov'  
**CC:** Hall, Lynda; Solloway, Chris; allison.castellan@noaa.gov  
**Sent:** 8/6/2014 4:01:10 PM  
**Subject:** RE: Oregon CZARA Legal Question on mixing approval and disapproval decisions in the Jan. 2015 final decision document

On #3 below, Regional policies may vary. I'm not sure all the regions require public comment for NPS management program updates. But it is nearly always the policy of the States to do so.

# Ex. 5 - Attorney Client

**From:** Carlin, Jayne  
**Sent:** Wednesday, August 06, 2014 3:14 PM  
**To:** Sweeney, Stephen; Waye, Don; Byrne, Jennifer; 'jeff.dillen@noaa.gov'  
**Cc:** Hall, Lynda; Solloway, Chris; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)  
**Subject:** RE: Oregon CZARA Legal Question on mixing approval and disapproval decisions in the Jan. 2015 final decision document

I thought we were not planning to go out for public comment on our disapproval—just an announcement. Is that correct? When we approve programs, how do we announce our decision? Seems like we would use the same process.

In our states, we are requiring states to have a public comment period on their proposed NPS management plan updates. Is this what you are asking, Steve?

Jayne Carlin, Watersheds Unit  
US EPA, Region 10  
1200 6th Ave, Suite 900 (OWW-134)  
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(206) 553-8512, (206) 553-0165 (fax)  
[carlin.jayne@epa.gov](mailto:carlin.jayne@epa.gov)

<http://www.epa.gov/r10earth/tmdl.htm>

**From:** Sweeney, Stephen  
**Sent:** Wednesday, August 06, 2014 11:54 AM  
**To:** Waye, Don; Byrne, Jennifer; 'jeff.dillen@noaa.gov'  
**Cc:** Hall, Lynda; Solloway, Chris; Carlin, Jayne; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)  
**Subject:** RE: Oregon CZARA Legal Question on mixing approval and disapproval decisions in the Jan. 2015 final decision document

Don,

# Ex. 5 - Attorney Client

**From:** Waye, Don

**Sent:** Wednesday, August 06, 2014 2:01 PM

**To:** Sweeney, Stephen; Byrne, Jennifer; 'jeff.dillen@noaa.gov'

**Cc:** Hall, Lynda; Solloway, Chris; Carlin, Jayne; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)

**Subject:** RE: Oregon CZARA Legal Question on mixing approval and disapproval decisions in the Jan. 2015 final decision document

Steve, JB & Jeff,

My apologies for burdening you with my previous email (below). I believe we have already discussed this question with you. Jayne reminded me of where we landed, which I agree with. No need for you to respond unless you disagree with the approach described below. Thanks.

From Jayne:

***I think we would explain our basis for disapproval. I do not believe we are requesting public comment on our basis or on the other MMs. Instead we would send a letter to the State moving New Development to our interim approval category (like we have done in the past). We plan to request public notice on all of our interim approvals once we can request public comments on an approval of the entire program. Agree?***

Don Waye

U.S. EPA - Nonpoint Source Control Branch

Phone: 202-566-1170

**From:** Waye, Don

**Sent:** Wednesday, August 06, 2014 1:07 PM

**To:** Sweeney, Stephen; Byrne, Jennifer; 'jeff.dillen@noaa.gov'

**Cc:** Hall, Lynda; Solloway, Chris

**Subject:** Oregon CZARA Legal Question on mixing approval and disapproval decisions in the Jan. 2015 final decision document

Steve, JB & Jeff,

I am wondering how you think we should handle the scenario as we draft our Jan. 2015 decision document where we now believe Oregon has met one or more—but not all—of the management measures that provided the basis for our previous proposed finding (last December) that the state did not have an approvable CNPCP.

- Do we leave those MM rationales and decisions out of the final disapproval document?
- Do we include them as PROPOSED APPROVALS for public comment in an otherwise FINAL decision document that provides the basis for withholding grant funds?
- Is there some 3<sup>rd</sup> way you would recommend?

This gets tricky...

Don Waye  
U.S. EPA - Nonpoint Source Control Branch  
Phone: 202-566-1170

**From:** Waye, Don  
**Sent:** Wednesday, August 06, 2014 12:54 PM  
**To:** 'Allison Castellan - NOAA Federal'  
**Cc:** Carlin, Jayne  
**Subject:** RE: Briefing Updates for Mngt

I saw that she added the following 2 new bullet headings, but did not supply any information around them:

- Concern Raised in Proposed Decision:

And

- Concerns raised during public comment period:

For the first bullet, I'd say "None."

# Non-Responsive

**From:** Allison Castellan - NOAA Federal [mailto:[allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)]  
**Sent:** Wednesday, August 06, 2014 12:04 PM  
**To:** Waye, Don  
**Cc:** Carlin, Jayne; Henning, Alan; Wu, Jennifer; Solloway, Chris; Flahive, Katie; Melissa Rada - NOAA Affiliate  
**Subject:** Re: Briefing Updates for Mngt

Yep. That was a big error on my part. Alan caught that yesterday and I already corrected. Thanks for taking a look. Do you have info on comments we received on new devel to add? See Jayne's added section for that.

On Wed, Aug 6, 2014 at 11:47 AM, Waye, Don <[Waye.Don@epa.gov](mailto:Waye.Don@epa.gov)> wrote:  
Allison,

## Ex. 5 - Deliberative

See attached.

Don

**From:** Carlin, Jayne  
**Sent:** Tuesday, August 05, 2014 8:32 PM  
**To:** [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)  
**Cc:** Henning, Alan; Waye, Don; Wu, Jennifer; Solloway, Chris; Flahive, Katie; Melissa Rada - NOAA Affiliate  
**Subject:** RE: Briefing Updates for Mngt

I really like this document, Allison. See my comments and thoughts on the attached. Sorry about not providing a tracked version. I forgot to put the tracking feature on.

Jayne

Jayne Carlin, Watersheds Unit  
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[carlin.jayne@epa.gov](mailto:carlin.jayne@epa.gov)

<http://www.epa.gov/r10earth/tmdl.htm>

**From:** Allison Castellan - NOAA Federal [<mailto:allison.castellan@noaa.gov>]

**Sent:** Tuesday, August 05, 2014 12:52 PM

**To:** Carlin, Jayne

**Cc:** Henning, Alan; Waye, Don; Wu, Jennifer; Solloway, Chris; Flahive, Katie; Melissa Rada - NOAA Affiliate

**Subject:** Re: Briefing Updates for Mngt

My apologies. Please see this attachment.

On Tue, Aug 5, 2014 at 3:34 PM, Allison Castellan - NOAA Federal <[allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)> wrote:  
All--

After our call, I went ahead and converted my "issue" paper on unsolicited comments into a shorter "update" for mngt. In doing so, I went ahead and took a stab at some of the other "updates" we wanted to share related to new devel, landslides, and a general update on responding to comments (we didn't discuss but thought this would be helpful).

The new devel and landslides are more of place holders for now so topic leads please revise as necessary. Not sure if this is the right level of detail for not for these items.

Allison

On Tue, Aug 5, 2014 at 12:47 PM, Carlin, Jayne <[Carlin.Jayne@epa.gov](mailto:Carlin.Jayne@epa.gov)> wrote:  
Hi Alan,

Great paper. See attached for another option to consider and very minor edits.

Jayne

Jayne Carlin, Watersheds Unit  
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1200 6th Ave, Suite 900 (OWW-134)  
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<http://www.epa.gov/r10earth/tmdl.htm>

**From:** Henning, Alan

**Sent:** Tuesday, August 05, 2014 8:56 AM

**To:** Carlin, Jayne; Waye, Don; Croxton, Dave; Wu, Jennifer; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov); Solloway, Chris; Flahive, Katie; Rueda, Helen; Parry, Roberta; Melissa Rada - NOAA Affiliate  
**Cc:** Psyk, Christine; Hall, Lynda; Joelle Gore - NOAA Federal; Sweeney, Stephen; Byrne, Jennifer; ['jeff.dillen@noaa.gov'](mailto:'jeff.dillen@noaa.gov')  
**Subject:** RE: Agenda for Aug 5 OR CZARA Call (10 AM WA/OR or 1 PM DC or Dave's Office) **Non-Responsive**

All,

Attached is a more current "Forestry Riparian" Issues Document. This explores three different options vs one. Feel free to give me a call if you have any questions.

Alan

541-687-7360

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**From:** Carlin, Jayne  
**Sent:** Monday, August 4, 2014 6:56 PM  
**To:** Waye, Don; Croxton, Dave; Henning, Alan; Wu, Jennifer; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov); Solloway, Chris; Flahive, Katie; Rueda, Helen; Parry, Roberta; Melissa Rada - NOAA Affiliate  
**Cc:** Psyk, Christine; Hall, Lynda; Joelle Gore - NOAA Federal; Sweeney, Stephen; Byrne, Jennifer; ['jeff.dillen@noaa.gov'](mailto:'jeff.dillen@noaa.gov')  
**Subject:** Agenda for Aug 5 OR CZARA Call (10 AM WA/OR or 1 PM DC or Dave's Office) **Non-Responsive**

OR CZARA

August 5 at 10 AM WA/OR or 1 PM DC

**Non-Responsive** or Dave's Office

Agenda

Updates:

- Ø Status reports on Rationales/Comments/Issue Papers for:
  - Legal
  - Landslides
  - OSDS,
  - new development,
  - pesticides
  - ag

- riparian
- roads
- general

Ø Status report on:

- Written bimonthly update Emailed to NWEA
  - Issue list and leads (changes? Chris Solloway?)
  - Assigning unaddressed comment categories

Forestry/Riparian Issue Paper (see attached)

OSDS Issue Paper (Don will send)

Adequacy of OR's general monitoring and tracking efforts issue paper (see attached)

Action Items/Next Steps

OR CZARA EPA Penalties Paper (NOAA is excused)(see attached)

### **Upcoming Meetings**

Aug 12: Prep for Managers Call: T-up issues that need to be elevated based on review of draft rationales/response to comments to date

Aug 14 Managers Call (Part 1)

Aug 19: Follow up from managers call; discuss any follow up issues that still need to be resolved based on review of draft rationales/response to comments to date

Aug 20 Managers Call (Part 2)

Aug 26: Lingering issues based on consolidated response to comments and decision rationale.

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